

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

	)	Chapter 11
)	
	)	Case No. 19-76260-ast
	)	Case No. 19-76263-ast
In re:	)	Case No. 19-76267-ast
	)	Case No. 19-76268-ast
Absolut Facilities Management, LLC, <i>et al.</i>	)	Case No. 19-76269-ast
	)	Case No. 19-76270-ast
Debtors. ¹	)	Case No. 19-76271-ast
	)	Case No. 19-76272-ast
)	
	)	(Jointly Administered)
)	

ORDER ADJOURNING HEARINGS SCHEDULED FOR OCTOBER 10, 2019

On October 3, 2019, the Court held hearings in the above-referenced cases and in the related adversary proceeding, Adv. Pro. No. 19-8121 (the “October 3 Hearing”). Among other agenda items, the Court held a continued hearing on Debtors’ Motion for DIP Financing and Use of Cash Collateral. [dkt item 4]

At the October 3 Hearing, the Court was advised that Debtors and its landlords, including Arba Group and 6060 Armor Road, LLC (collectively, the “Landlords”) negotiated the framework of a settlement that had the potential to resolve several of the matters at issue in these cases. Proposed Counsel to Debtors read certain terms of the parties’ negotiations into the record. The Court directed that a term sheet (the “Term Sheet”) of the material terms of this

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, are: Absolut Facilities Management, LLC (1412); Absolut Center for Nursing and Rehabilitation at Allegany, LLC (7875); Absolut Center for Nursing and Rehabilitation at Aurora Park, LLC (8266); Absolut Center for Nursing and Rehabilitation at Gasport, LLC (8080); Absolut at Orchard Brooke, LLC (1641); Absolut Center for Nursing and Rehabilitation at Orchard Park, LLC (8300); Absolut Center for Nursing and Rehabilitation at Three Rivers, LLC (8133); and Absolut Center for Nursing and Rehabilitation at Westfield, LLC (7924).

settlement between Debtors and the Landlords be filed with the Court by October 8, 2019 at 12:00 p.m.

At the October 3 Hearing, Debtors' pre-petition lender, Capital Finance, LLC, objected to the proposed budget [dkt item 114] and Debtors' use of its cash collateral for operating and implementing the closure of Debtors' Orchard Park Facility, contending that the value of its collateral has substantially diminished. As a result, the Court authorized limited continued use of cash collateral and adjourned the hearing on the Motion for DIP Financing and Use of Cash Collateral to October 10, 2019 at 1:30 p.m. (the "October 10 Hearing"). The Court directed Debtors to file updated, individual budgets for each of Debtors' facilities, which would carry Debtors' operations through the week ending November 8, 2019 (the "By-Facility Budgets"), by October 8, 2019 at 12:00 p.m. The Court also directed Debtors and Capital Finance, LLC, to file affidavits of the individuals who will testify at the October 10 Hearing (the "Cash Collateral Affidavits") by October 8, 2019 at 12:00 p.m. Capital Finance timely filed its Affidavit; Debtors did not.

As of the October 3 Hearing, the Court had not entered an Order regarding the Motion for DIP Financing and Use of Cash Collateral due, inter alia, to Debtors' delayed submissions of such proposed orders, and a dueling proposed order filed by the Landlords. In light of the discussions that had taken place prior to and during the October 3 Hearing between Debtors and the Landlords, the Court directed Debtors to file a consensual order for DIP financing and cash collateral (the "Consensual DIP and Cash Collateral Order") by October 7, 2019.

At the October 3 Hearing, Debtors asked if the Court would schedule a portion of the Critical Vendors Motion for the October 10 Hearing to enable Debtors to seek authorization to pay one proposed critical vendor, and the Court scheduled the hearing.

Despite the Court setting various deadlines which expired on October 7, 2019 and October 8, 2019 at 12:00 p.m., the Court is not in timely receipt of the Term Sheet, the By-Facility Budgets, the Cash Collateral Affidavits for Debtors' witnesses, nor the Consensual DIP and Cash Collateral Order. Accordingly, it is hereby

ORDERED, that the hearings scheduled for October 10, 2019 at 1:30 p.m. for the Motion for DIP Financing and Use of Cash Collateral [dkt item 4] and payment of one proposed critical vendor as set forth in the Critical Vendors Motion [dkt item 10] are adjourned to **October 15, 2019 at 1:45 p.m.**; Debtors may continue to use cash collateral on consent of the secured parties pending the adjourned hearing; and it is further

ORDERED, that the Term Sheet, the By-Facility Budgets, the Cash Collateral Affidavits for Debtors' witnesses, and the Consensual DIP and Cash Collateral Order or a letter explaining why there is no consensual order shall be filed by **October 10, 2019 at 4:00 p.m.**; and it is further


ORDERED, that if Capital Finance, LLC elects to file any supplemental Cash Collateral Affidavits, such affidavits shall be filed by **October 11, 2019 at 4:00 p.m.**; and it is further

ORDERED, that if the Term Sheet, the By-Facility Budgets, the Cash Collateral Affidavits for Debtors' witnesses, and the Consensual DIP and Cash Collateral Order are not timely filed, the hearings now adjourned to October 15, 2019 will be further adjourned; and it is further

ORDERED, that Proposed Counsel to Debtors email a copy of this Order to all appearance parties by **October 9, 2019 at 5:00 p.m.**

Dated: October 9, 2019
Central Islip, New York




Alan S. Trust
United States Bankruptcy Judge